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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/706,853

11/12/2003

Matthew Telles

Telles-001

6077

7590

06/22/2004

McCrystle & Associates
P.O. BOX 848
Belmont, CA 94002

EXAMINER

VALENTI, ANDREA M

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,853

Applicant(s)

TELLES, MATTHEW

Examiner

Andrea M. Valenti

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12 November 2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 4 objected to because of the following informalities:

Claim 4, 'ring is has an' should be --ring has an--

Appropriate correction is required.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "**means**" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because of the use of legal phraseology in line 8. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 references 'the ring', it is unclear if applicant is referring to the 'ring' of claim 10 or the second ring of claim 16. For examination purposes, the examiner has assumed that applicant was referring to the ring of claim 10. Clarification is requested.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6-8, and 10-17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,506,475 to Elliott.

Regarding Claims 1, 7, 8, and 10, Elliott teaches a hanger for suspending a plant container and the like from a fixed support with a ring (Elliott #32); an upper portion, the upper portion including at least two flexible upper members (Elliott #31) having a first and second ends defining a length, wherein the flexible members are disposed through an aperture of the ring wherein equal lengths of the members are disposed on each side of the ring; a container supporting member, the container supporting member (Elliott portion below element #21) including at least two flexible members having first and second ends (Elliott Fig. 1 first end at element #22 and second end at element #14), each fixedly attached to one another about a midpoint (Elliott center of #13) and including connection means at each end, wherein the connection means are adapted to receive the first and second end of the upper members (Elliott #22); the container supporting member further containing a third flexible support member (Elliott Fig. 1), the

Art Unit: 3643

third flexible member is configured to be fixedly attached adjacent to the first and second ends of the flexible members.

Regarding Claim 11, Elliott teaches the upper member includes means configured to adjust the length of the members disposed through the aperture of the ring (Elliott #31).

Regarding Claim 12, Elliott teaches the upper flexible members are constructed of material chosen from chain (Elliott #31).

Regarding Claim 13, Elliott teaches the flexible members of the container support member are constructed of material chosen from chain (Elliott #31).

Regarding Claim 14, Elliott teaches the third flexible member forms a generally cylindrical shaped member (Elliott Fig. 1).

Regarding Claim 15, Elliott teaches the third flexible member includes a length adjustment member.

Regarding Claim 16, Elliott teaches the container supporting member includes a third flexible member, wherein the flexible members have a first and second end, the first end having a connector adapted to receive the ends of the upper flexible members (Elliott #22) and the second ends coupled to a second ring (Elliott #12).

Regarding Claims 6 and 17, Elliott teaches the ring is constructed of a material selected from the group consisting of metals, plastics, composites, and ceramics (Elliott #32).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,532,306 to Herbert in view of U.S. Patent No. 4,101,109 to Edwards.

Regarding Claim 1, Herbert teaches a hanger adapted for retaining and hanging objects with a ring (Herbert Fig. 1 #S²); at least two upper flexible members (Herbert #15) having a first and second ends, wherein each member is received through an aperture of the ring, the flexible members defining an upper portion of the hanger; a lower hanger portion, the lower hanger portion including at least two lower flexible members (Herbert #18) having first and second ends, wherein each of the two members are fixedly attached to each other at a mid point (Herbert #16), and a flexible retaining ring (Herbert #20), the flexible retaining ring configured to receive the first and second ends of the lower flexible members, wherein the retaining ring is configured to retain the ends of the lower flexible members at a distance from one another (Herbert Fig. 2).

Herbert is silent on the first and second ends including an adjustment means configured to receive the second ends of the upper flexible members. However, Edwards teaches a hanging suspension means that entails the upper and lower member connected with an adjustment means (Edwards #55). It would have been obvious to one of ordinary skill in the art to modify the teachings of Herbert with the

teachings of Edwards at the time of the invention for the ergonomic adjustable vertical length taught by Edwards.

Regarding Claim 2, Herbert as modified teaches the upper flexible members are nylon (Herbert Col. 4 line 7-8).

Regarding Claim 3, Herbert as modified teaches the lower flexible members are nylon (Herbert Col. 4 line 7-8).

Regarding Claim 4, Herbert as modified is silent on the flexible retaining ring has an adjustable length. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely making a known element adjustable for ease of assembly and does not present a patentably distinct limitation [*In re Stevens*, 212 F.2d 197, 198, 101 USPQ 284, 285 (CCPA 1954)].

Regarding Claim 5, Herbert as modified is silent on the upper and lower flexible members are cylindrical in cross-section. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely an aesthetic design choice involving a change in shape to create a more geometric appearance performing the same intended function and does not present a patentably distinct limitation.

Regarding Claim 6, Herbert as modified teaches the ring is constructed of a material chosen from the group consisting of steel, stainless steel, titanium, ceramic, plastic (Herbert Col. 4 line 12-13).

Regarding Claims 7 and 8, Herbert as modified teaches the device is configured to carry articles of various sizes and shapes (Herbert Col. 1 line 1-5) and it inherently includes the lower hanger portion is configured to retain a plant container or the lower hanger portion is configured to retain an audio loudspeaker.

Regarding Claim 9, Herbert as modified teaches the adjustment means includes a buckle (Edwards #55).

Claims 2-5 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,506,475 to Elliott

Regarding Claims 2 and 3, Elliott is silent on the flexible members being nylon. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely an engineering design choice involving the selection of a known alternate equivalent material for intended use to achieve a light durable design within the a specified budget and does not present a patentably distinct limitation.

Regarding Claim 4, Elliott is silent on the ring being adjustable. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely making a known element adjustable for ease of assembly and does not present a patentably distinct limitation [*In re Stevens*, 212 F.2d 197, 198, 101 USPQ 284, 285 (CCPA 1954)].

Regarding Claim 5, Elliott is silent on the flexible members having a cylindrical cross-section. However, it would have been obvious to one of ordinary skill in the art to

modify the teachings at the time of the invention since the modification is merely an aesthetic design choice involving a change in shape to create a more geometric appearance performing the same intended function and does not present a patentably distinct limitation.

Regarding claim 18, Elliott is silent on a cooler disposed within the container supporting member. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely the selection of an alternate article to store in a suspended state for an efficient use of space to keep food at an elevated location and does not present a patentably distinct limitation. It is old and notoriously well-known to support various articles of shapes and sizes in a suspended state and merely selecting one article versus another article is an obvious modification to one of ordinary skill in the art.

Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,506,475 to Elliott in view of U.S. Patent No. 4,101,109 to Edwards.

Regarding Claims 9 and 19, Elliott is silent on a buckle. However, Edwards teaches a support suspension means utilizing a buckle adjustment means to suspend heavy loads (Edwards #55). It would have been obvious to one of ordinary skill in the art to modify the teachings of Elliott with the teachings of Edwards since the modification is merely the selection of an old and notoriously well-known alternate equivalent means of adjustment selected to achieve certain design cost parameters or for ergonomic use of the device.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 4,227,669; U.S. Patent No. 3,081,058; French Patent FR 2659213 A1; U.S. Patent Des. 432,943; U.S. Patent No. 4,520,979; U.S. Patent No. 4,057,210; U.S. Patent No. 4,349,172; U.S. Patent No. 941,448.

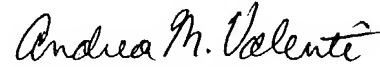
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Art Unit: 3643

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

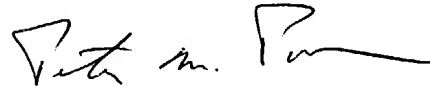


Andrea M. Valenti

Examiner

Art Unit 3643

26 May 2004



Peter M. Poon

Supervisory Patent Examiner

Technology Center 3600